

DRAFT

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING TITLE 20 OF THE SAN JOSÉ MUNICIPAL CODE (THE ZONING ORDINANCE) TO AMEND SECTION 20.50.100 OF CHAPTER 20.50 (INDUSTRIAL ZONING DISTRICTS) TO ADD ENUMERATED USES IN THE INDUSTRIAL ZONING DISTRICTS INCLUDING NEIGHBORHOOD AGRICULTURE AS A PERMITTED USE, AQUAPONICS/AQUACULTURE AS A SPECIAL USE, WAREHOUSE INDOOR SALE OF PASSENGER VEHICLES, PICK-UP TRUCKS NOT EXCEEDING 25 FEET IN LENGTH, AND MOTORCYCLES AS A CONDITIONAL USE, OUTDOOR COMMERCIAL RECREATION AS A CONDITIONAL USE, STADIUMS WITH UP TO 2,000 SEATS AS A CONDITIONAL USE, AND STADIUMS WITH MORE THAN 2,000 SEATS AS A CONDITIONAL USE REQUIRING CITY COUNCIL APPROVAL AS THE INITIAL DECISION-MAKING BODY; TO AMEND 20.50.110 TO CLARIFY THE METHOD OF CALCULATION OF COMMERCIAL SUPPORT USES IN THE IP INDUSTRIAL PARK DISTRICT; TO ADD SECTION 20.50.140 TO ESTABLISH CRITERIA FOR ISSUING A CONDITIONAL USE PERMIT FOR WAREHOUSE INDOOR SALE OF PASSENGER VEHICLES, PICK-UP TRUCKS NOT EXCEEDING 25 FEET IN LENGTH, AND MOTORCYCLES; TO AMEND SECTION 20.50.270 TO CLARIFY THAT ALLOWANCES FOR MINOR PROJECTIONS INTO SETBACK AREAS OF UP TO TWENTY (20) PERCENT OF BUILDING LENGTH APPLY INDEPENDENTLY AND NOT CUMULATIVELY TO SUBSECTIONS B AND C OF THIS SECTION; TO AMEND SECTION 20.50.300 TO CHANGE THE PERMIT REQUIREMENT FROM A CONDITIONAL USE PERMIT TO A SPECIAL USE PERMIT FOR EXCEEDANCE OF DECIBEL LEVELS IN TABLE 20-135; TO AMEND SECTION 20.85.030 OF CHAPTER 20.85 (SPECIFIC HEIGHT RESTRICTIONS) TO CHANGE THE MAXIMUM ALLOWABLE HEIGHT FOR COMMUNICATION TOWERS AND OTHER SIMILAR NON-BUILDING STRUCTURAL USES; TO AMEND SECTION 20.100.220 OF CHAPTER 20.100 (ADMINISTRATION AND PERMITS) TO IDENTIFY COUNCIL AS THE INITIAL DECISION MAKING BODY FOR STADIUMS WITH MORE THAN 2,000 SEATS; TO AMEND SECTION 20.170.300 OF CHAPTER 20.170 (RESIDENTIAL CONDOMINIUM AND

COMMUNITY APARTMENT PROJECT REGULATIONS) TO DELETE ADDITIONAL PARKING REQUIREMENTS FOR RESIDENTIAL CONDOMINIUM AND COMMUNITY APARTMENT PROJECTS BEYOND THE PARKING REQUIREMENTS FOR RESIDENTIAL USES ENUMERATED IN CHAPTER 20.90; AND TO AMEND CHAPTER 20.200 (DEFINITIONS) TO ADD NEW SECTIONS DEFINING "PLANT NURSERY" AND "AQUAPONICS/AQUACULTURE"; ALL TO FURTHER IMPLEMENT THE URBAN AGRICULTURE, ECONOMIC DEVELOPMENT, AND ZONING GOALS AND POLICIES SET FORTH WITHIN THE ENVISION SAN JOSÉ 2040 GENERAL PLAN, AND TO MAKE OTHER TECHNICAL, NON-SUBSTANTIVE, OR FORMATTING CHANGES WITHIN THOSE SECTIONS OF TITLE 20

WHEREAS, pursuant to the provisions and requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines and Title 21 of the San José Municipal Code (collectively, "CEQA"), the City has certified that certain Final Program Environmental Impact Report for the Envision San José 2040 General Plan (the "Final EIR") and the City Council adopted its related Resolution No. 76041 in connection therewith; and

WHEREAS, more specifically pursuant to Section 15168 of the State CEQA Guidelines, the City of San José has determined that no new effects would occur from and no new mitigation measures would be required for the adoption of this Ordinance and that adoption of this Ordinance is within the scope of and in furtherance of the Envision San José 2040 General Plan, taken together with the Final EIR and related Resolution No. 76041; and

WHEREAS, the City Council of the City of San José is the decision-making body for this Ordinance; and

WHEREAS, this Council has reviewed and considered the Final EIR and related Resolution No. 76041 prior to taking any approval actions

on this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
SAN JOSE:

SECTION 1. Section 20.50.100 of Chapter 20.50 of Title 20 of the San José
Municipal Code is hereby amended to read as follows:

20.50.100 Allowed Uses and Permit Requirements

- A. “Permitted” land uses are indicated by a “P” on Table 20-110.
- B. “Permitted” uses which may be approved only on property designated on
the Land Use/Transportation Diagram of the General Plan, as amended,
with the Combined Industrial/Commercial land use designation or, in the
case of hotel/motel establishments, which may also be approved on
property designated on the Land Use/Transportation Diagram of the
General Plan, as amended, with the Preferred Hotel Site Overlay, are
indicated by a “P^{GP}” on Table 20-110.
- C. “Conditional” uses are indicated by a “C” on Table 20-110. These uses
may be allowed in such designated districts, as an independent use, but
only upon issuance of and in compliance with a Conditional Use Permit as
set forth in Chapter 20.100.

“Conditional” uses which may be approved only on property designated on
the Land Use/Transportation Diagram of the General Plan, as amended,
with the Combined Industrial/Commercial designation or, in the case of
hotel/motel establishments, may also be approved on property designated

on the Land Use/Transportation Diagram of the General Plan, as amended, with the Preferred Hotel Site Overlay, are indicated by a “C^{GP}” on Table 20-110. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Conditional Use Permit as set forth in Chapter 20.100.

D. “Conditional” uses requiring City Council approval as the initial decision-making body are indicated by a “CC” on Table 20-110. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Conditional Use Permit approved by the City Council as set forth in Chapter 20.100. Applications for these uses shall first be considered by the Planning Commission at a public hearing of the Commission for the Commission's report and recommendation on the application to the City Council pursuant to the processes set forth in Chapter 20.100.

“Conditional” uses which may be approved only on property designated on the Land Use/Transportation Diagram of the General Plan, as amended, with the Combined Industrial/Commercial designation are indicated by a “CC^{GP}” on Table 20-110. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Conditional Use Permit as set forth in Chapter 20.100.

DE. “Special” uses are indicated by a “S” on Table 20-110. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Special Use Permit as set forth in Chapter 20.100.

- EE.** “Administrative” uses are indicated by an “A” on Table 20-110. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with an Administrative Permit as set forth in Chapter 20.100.
- EG.** “Restricted” land uses are indicated by an “R” on Table 20-110. These uses may occur in such designated districts, as an independent use, but only upon issuance of and in full compliance with a valid and effective Zoning Code Verification Certificate as set forth in Chapter 20.100.
- GH.** Land uses not permitted are indicated by a “-” on Table 20-110. Land uses not listed on Table 20-110 are not permitted.
- HI.** When the right column of Table 20-110 includes a reference to a section number or a footnote, the regulations cited in the section number or footnote apply to the use. In addition, all uses are subject to any other applicable provision of this Title 20 and any other title of the San José Municipal Code.

| Table 20-110 Industrial Districts Land Use Regulations | | | | | | |
|---|-----------------|-----|-----------------|-----------------|----|--------------------------------|
| Use | Zoning District | | | | | Applicable Sections & Notes |
| | CIC | TEC | IP | LI | HI | |
| Industry | | | | | | |
| Auction | C | C | C ^{GP} | C ^{GP} | - | |
| Industrial services | - | - | - | P | P | |
| Laboratory, processing | P | P | P | P | P | |

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| Manufacturing and assembly | | | | | | |
| Light | P | P | P | P | - | |
| Medium | P | P | P | P | P | |
| Heavy | - | - | - | - | P | |
| Research and development | P | P | P | - | - | |
| Catalog and mail order | P | P | P | P | - | |
| Construction / Corporation yard | - | - | - | S | S | |
| Establishment for the repair, cleaning of household, commercial or industrial equipment or products | - | - | - | P | P | |
| Extraction of minerals from the ground, including quarrying | - | - | - | - | C | |
| Hazardous materials storage facility | - | - | - | C | C | |
| Hazardous waste facility | - | - | - | - | C | |
| Junkyard | - | - | - | - | C | |
| Miniwarehouse/ministorage | - | - | - | P | P | |
| Outdoor uses or storage, industrial | - | - | - | S | P | Section 20.50.210 |
| Private Power Generation | C | C | C | C | C | |
| Stockyard, including slaughter | - | - | - | - | C | |
| Warehouse/distribution | P | P | P | P | P | |

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| facility | | | | | | |
| Wholesale sale establishment | P | S | S | P | P | |
| Wineries, breweries | P | P | P | P | P | |
| Additional Uses | | | | | | |
| Any use not set forth in Tables 20-30, 20-50, 20-90 | - | - | - | - | C | |
| Any use without a permanent fully enclosed Building on-site | C | C | C | S | S | |
| Commercial support | - | P | P | - | - | Note 5; Section 20.50.110 |
| Retail ^[LP1] sales, goods and merchandise | P | P | - | - | - | Note 5; Section 20.50.110 |
| Retail art studio | P | P | - | - | - | |
| Alcohol, off-site sales –beer and/or wine only | C | C | - | - | - | Note 5; Section 20.50.110 |
| Alcohol, off-site sales, full range of alcoholic beverages | C | C | - | - | - | Note 5; Section 20.50.110 |
| Alcohol, off-site sales –beer and/or wine only and incidental to a winery/brewery | C | C | C | C | C | Note 12; Section 20.50.110 |
| Alcoholic beverages, off-site sales –distilled spirits only and incidental to a distillery | C | C | C | C | C | Note 12; Section 20.50.110 |
| Bakery, retail | P | P | - | - | - | Note 5; Section 20.50.110 |
| <u>Aquaculture; Aquaponics</u> | <u>S</u> | <u>S</u> | <u>S</u> | <u>S</u> | <u>S</u> | |

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| Certified Farmers' Market | - | S | S | - | - | Part 3.5, Chapter 20.80 |
| Certified Farmers' Market - Small | - | P | P | - | - | Part 3.5, Chapter 20.80 |
| Food, beverage, groceries | P | P | - | - | - | Note 5; Section 20.50.110 |
| <u>Neighborhood Agriculture</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | |
| Nursery, plant | P | P | - | C | C | |
| Outdoor Vending | A | A | - | A | A | Part 10, Chapter 20.80 |
| Outdoor Vending – Fresh Fruits and Vegetables | P | P | P | P | P | Part 10, Chapter 20.80 |
| Large format commercial establishment | - | - | C ^{GP} | C ^{GP} | - | |
| Large format commercial establishment, associated commercial | - | - | C ^{GP} | C ^{GP} | - | Section 20.50.115 |
| Warehouse retail | - | - | C | C | C | Section 20.50.130 |
| Sales, office furniture, industrial equipment, machinery | P | P | | C | | |
| Seasonal sales | P | P | P | P | P | Part 14, Chapter 20.80 |
| Education and Training | | | | | | |
| Day care center | C | C | C ^{GP} | C ^{GP} | - | |
| School, driving (class A & B license) | - | - | - | P | P | |
| Instructional art studios | P | P | - | - | - | |
| Instructional art studios, live models | C | C | - | - | - | |

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| Private instruction, personal enrichment | P | P | - | - | - | |
| School- elementary and secondary (public or private) | C | C | - | - | - | Note 11 |
| School, post secondary | C | C | C | - | - | |
| School, trade and vocational | C | C | - | C | C | |
| Entertainment and Recreation Related | | | | | | |
| Recreation, commercial / indoor | P | C on lands with a General Plan land use designation of Transit Employment Center; C ^{GP} on lands with other General Plan land use designations | C ^{GP} | C ^{GP} | - | Note 5, Section 20.50.110 |
| <u>Recreation, commercial / outdoor</u> | <u>C</u> | <u>=</u> | <u>=</u> | <u>=</u> | | |
| Relocated cardroom | C ^{GP} | C ^{GP} | C ^{GP} | C ^{GP} | - | Section 20.80.1155 |
| Performing arts production and rehearsal space, excluding performances | P | C | C | C ^{GP} | - | |
| <u>Stadium, 2,000 seats or fewer including incidental support uses</u> | <u>C^{GP}</u> | <u>C on lands with a General Plan land use designation of Transit Employment</u> | <u>=</u> | <u>=</u> | <u>=</u> | <u>Note 15</u> |

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| | | <u>Center; C^{GP} on lands with other General Plan land use designations</u> | | | | |
| <u>Stadium, more than 2,000 seats including incidental support uses</u> | <u>CC^{GP}</u> | - | - | - | - | <u>Note 15; Note 16</u> |
| Food Services | | | | | | |
| Caterer | P | P | - | - | - | |
| Drinking establishments | C | C | - | - | - | |
| Drinking establishments interior to a full-service hotel/motel that includes 75 or more guest rooms | P | S if within 150 feet of residentially used or zoned Lot; P if not within 150 feet of residentially used or zoned Lot | P ^{GP} | - | - | Section 20.80.475; Note 13 |
| Drinking establishment in conjunction with a winery or brewery | C | C | C | C | C | |
| Public eating establishments | P | P | - | C | C | Note 5, Section 20.50.110 and Section 20.50.113 |
| Outdoor dining, incidental to a public eating establishment | P | S if within 150 feet of residentially used or zoned Lot; P if not within 150 feet of residentially used or | - | C | C | Note 5, Section 20.50.110 and Section 20.50.113 |

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| | | zoned Lot | | | | |
| Health and Veterinary Services | | | | | | |
| Animal boarding, indoor | P | P | - | - | - | Note 14 |
| Animal grooming | P | P | - | - | - | Note 14 |
| Emergency ambulance service | C | C ^{GP} | C ^{GP} | C ^{GP} | - | |
| Hospital/in-patient facility | C | C | C | - | - | Note 6 |
| Medical marijuana collective [USE SUSPENDED] | R | - | - | R | - | Part 9.75, Chapter 20.80 |
| Office, medical | P | P | C | - | - | Note 5, Section 20.50.110 |
| Veterinary clinic | P | P | - | - | - | Note 14 |
| General Services | | | | | | |
| Crematory | - | - | - | C ^{GP} | C | Note 7 |
| Mortuary, without funeral services | - | - | - | P | P | |
| Dry cleaner | P | P | - | - | - | |
| Hotel / motel | P | P on lands with a General Plan land use designation of Transit Employment Center; P ^{GP} on lands with other General Plan land use | C ^{GP} | - | - | |

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| | | designations | | | | |
| Laundromat | P | P | - | - | - | |
| Maintenance and repair, small household appliances | P | P | - | - | - | |
| Messenger services | P | P | - | - | - | |
| Personal services | P | P | - | - | - | Note 5, Section 20.50.110 |
| Photo processing and developing | P | P | P | P | P | |
| Printing and publishing | P | P | P | P | P | |
| Social service agency | - | C | C | C | C | |
| Offices and Financial Services | | | | | | |
| Automatic teller machine | P | P | P | P | P | Section 20.80.200 |
| Business support | P | P | - | - | - | |
| Financial institution | P | P | - | C ^{GP} | - | Note 5, Section 20.50.110 |
| Office, general business | P | P | P | - | - | |
| Office, research and development | P | P | P | - | - | |
| Public, Quasi-Public and Assembly Uses | | | | | | |
| Church / Religious assembly | C | C on lands with a General Plan land use designation of Transit Employment Center; C ^{GP} | C ^{GP} | C ^{GP} | - | |

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| | | on lands with other designations | | | | |
| Residential | | | | | | |
| Emergency residential shelter, more than 50 beds | C | C ^{GP} | C ^{GP} | C | - | Section 20.80.500 |
| Emergency residential shelter, 50 beds or fewer | P | C | C ^{GP} | C | - | Section 20.80.500 |
| Living quarters, custodian, caretakers | - | - | - | - | C | Note 1 |
| Drive-Through Use | | | | | | |
| Drive-through in conjunction with any use | C | C ^{GP} | C ^{GP} | C ^{GP} | - | |
| Recycling Uses | | | | | | |
| Recycling processing facility | - | C | C | S | S | |
| Recycling transfer facility | - | C | C | S | S | |
| Large collection facility | - | - | - | - | P | |
| Reverse vending | A | A | A | A | A | |
| Small collection facility | A | A | A | A | A | |
| Transportation and Utilities | | | | | | |
| Common carrier | - | - | - | C | P | |
| Common carrier depot | S | S | S | S | S | |
| Community television antenna systems | C | C | C | C | C | |
| Data center | S | S | S | S | S | |

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| Off-site, alternating and alternative use parking arrangements | S | S | S | S | S | Section 20.90.200 |
| Parking establishment not permitted in Tables 20-30, 20-50 and 20-90 | C | C | C | C | C | |
| Parking establishment, off-street | C | C | C | C | C | |
| Television, radio studio | C | C | C | C | C | |
| Utility facilities, excluding corporation yards, storage or repair yards and warehouses | C | C | C | C | C | |
| Wireless communication antenna | C | C | C | C | C | Section 20.100.1300 |
| Wireless communication antenna, <u>Slimline Monopole</u> | S | S | S | S | S | Section 20.80.1900 |
| Wireless communication antenna, Building mounted | P | P | P | P | P | Section 20.80.1910 |
| Electrical Power Generation | | | | | | |
| Base Load Facility | - | - | - | - | C | |
| Stationary Peaking Facility | - | - | - | C | C | |
| Transportable Peaking Facility | - | - | - | C | C | |
| Private Power Generation Facility | C | C | C | C | C | |
| Co-generation Facility | S | S | S | S | S | |
| Stand-by/Back-up/ <u>Small-scale Renewable Power</u> | | | | | | |

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| Facilities that do not exceed noise and air standards | P | P | P | P | P | |
| Facilities that do exceed noise and air standards | C | C | C | C | C | |
| Temporary stand-by-backup | P | P | P | P | P | |
| Solar Photovoltaic System | P | P | P | P | P | Section 20.100.610 C.7. |
| Vehicle Related Uses | | | | | | |
| Auto dealer, wholesale, no on-site storage | P | P | P | - | - | |
| Car wash, detailing | C | C | - | - | - | |
| Gas or charge station, excluding incidental service or repair | P | C | C ^{GP} | C ^{GP} | - | Note 2, Note 8 |
| Gas or charge station with incidental service and repair | P | C | C ^{GP} | C ^{GP} | - | Note 3 |
| Sale, brokerage, or lease (rental) of passenger vehicles, pick-up trucks not exceeding 25 feet in length, and motorcycles | C | C | - | C | - | Note 10 |
| <u>Warehouse indoor retail sale of passenger vehicles, pick-up trucks not exceeding 25 feet in length, and motorcycles</u> | <u>C</u> | <u>C</u> | <u>C</u> | <u>C</u> | <u>C</u> | <u>Section 20.50.140</u> |
| Repair and cleaning of vehicles | C | - | - | P | P | Note 4 |
| Sale or lease of commercial trucks, buses, trailers, campers, boats, mobilehomes, construction equipment | C | - | - | C | - | |

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| Sale, vehicle parts | P | P | - | P/S | - | Note 9 |
| Vehicle tow yard | - | - | - | C | S | |
| Vehicle wrecking, including sales of parts | - | - | - | - | C | |
| Historic Reuse | | | | | | |
| Historic landmark Structure reuse | S | S | S | S | S | Part 8.5 Chapter 20.80 |

Notes:

1. Site must be seven (7) acres or more.
2. No incidental repair or service.
3. Incidental repair includes air conditioning service, carburetor and fuel injection service, electrical service, radiator service, and tune- up, lube, oil change, and smog check, as well as tires, batteries and accessories installation. Does not allow body repair or painting.
4. All vehicle-related repair, service, and accessory or other installation, excepting the cleaning of vehicles, shall be conducted within a fully enclosed Building.
5. Retail; recreation, commercial/indoor establishments; public eating establishments; outdoor dining, incidental to a public eating establishment; financial institutions; medical clinics; medical offices; and personal service establishments are permitted in the IP District subject to the limitations of commercial support use, Section 20.50.110. Public eating establishments in the LI or HI districts are limited to a maximum of 650 gross square feet in size.
6. Refer to the General Plan for criteria to determine if the use is permissible at the proposed location.
7. Crematories shall be separated by at least 500 linear feet from residential uses, schools, and day care centers, which distance(s) shall be measured from the nearest points of the Parcel boundary on which the crematory is proposed and the Parcel boundary on which the residential, school or day care center use is located.
8. ~~Pedestal charging~~ Charging stations that are incidental to a separate primary use, that do not impact on-site or off-site vehicular circulation, and that serve patrons of the primary use on-site are permitted in all industrial zoning districts.
9. Vehicle parts sales are permitted in the LI District when the total floor area dedicated to retail display and open to the public occupies no more than 15% of the gross floor area of the individual tenant space. Vehicle parts sales establishments

that exceed 15% of the gross floor area of the individual tenant space are subject to a special use permit.

10. Any incidental vehicle-related repair, service, and accessory or other installation, excepting the cleaning of vehicles, shall be conducted within a fully enclosed Building.
11. Public schools are subject to the regulations of this title, subject to the provisions of California Government Code Section 53094 for classroom facilities.
12. Off-sale of Alcoholic Beverages. The total square footage of alcoholic beverages on display in a retail area and the total square footage of retail floor area in which alcoholic beverages are displayed for sale shall be the lesser of the following:
 - a. Two hundred fifty (250) gross square feet; or
 - b. Five (5) percent of the winery's, brewery's, or distillery's entire gross floor area; and any and all alcoholic beverages made available for retail sale shall be limited only to those alcoholic beverages manufactured and produced on-site.
13. At least two hundred (200) rooms and four (4) or more stories in Height are required for hotels located in the TEC Transit Employment Center Zoning District.
14. In the TEC Zoning District, all uses involving any type of care for animals, including but not limited to grooming, boarding, and medical care, must be conducted wholly inside a Building.
15. Primary uses include sporting events, large assembly, concerts, and entertainment events of similar character and intensity. Incidental support uses include offices, locker rooms, retail, Public Eating Establishments, Drinking Establishments, Outdoor Vending Facilities, and other commercial uses of similar character and intensity.
16. Use Permit applications for stadiums that consist of more than 2,000 seats and that are in an airport influence area shall be referred to the Santa Clara Airport Land Use Commission prior to approval by the City.

SECTION 2. Section 20.50.110 of Chapter 20.50 of Title 20 of the San José Municipal Code is hereby amended to read as follows:

20.50.110 Commercial Support

Commercial Support is permitted in the IP Industrial Park District only when all of the following criteria are met:

- A. Such commercial uses serve the immediate area; and
- B. Such commercial uses are located entirely within Buildings occupied by primary uses permitted in the IP District; and
- C. The sum of all such commercial uses in ~~the buildings~~ any single Building on the Site occupies no more than ten (10) percent of the gross floor area of ~~any the~~ Building or no more than twenty thousand (20,000) square feet ~~of any Building~~, whichever is less; or, in the case of medical offices as the sole commercial support use in a Building, the sum of such medical office use in any single Building on the Site occupies no more than twenty (20) percent of the gross floor area of ~~any the~~ Building or no more than twenty thousand (20,000) square feet ~~of any Building~~, whichever is less; and
- D. Such commercial uses are limited to the following:
 - 1. Retail; including off-sale of alcohol, subject to a conditional use permit.
 - 2. Recreation, commercial/indoor.
 - 3. Personal service establishment.

4. Public eating establishment.
5. Outdoor dining, incidental to a public eating establishment.
6. Financial institution.
7. Medical clinic.
8. Medical office.
9. Amusement game devices, up to nine (9) per business establishment, as an (incident) to one (1) or more of the above enumerated commercial uses.

SECTION 3. Chapter 20.50 of Title 20 of the San José Municipal Code is hereby amended by adding a section to be numbered and entitled and to read as follows:

20.50.140 Warehouse Indoor Retail Sale of Passenger Vehicles, Pick-up Trucks not Exceeding 25 feet in Length, and Motorcycles.

- A. A Conditional Use Permit may be issued for warehouse indoor retail sale of passenger vehicles, pick-up trucks not exceeding twenty-five (25) feet in length, and motorcycles in the Industrial Zoning Districts only when all of the following criteria are met:
1. Such warehouse use occupies a minimum of ten thousand (10,000) square feet of floor area in existing industrial buildings; and
 2. The display of passenger vehicles, pick-up trucks not exceeding twenty five (25) feet in length or motorcycles, occurs solely indoors and occupies a minimum of ninety (90) percent of the floor area that is open to the public in the existing industrial buildings; and

3. A maximum of one (1) vehicle parking space per two hundred fifty (250) square feet of floor area shall be provided to serve the use; and
 4. The Planning Commission, or City Council on appeal, finds that the proposed use is compatible with the industrial character of the surrounding neighborhood and will not constrain the use of adjacent properties for industrial purposes or constrain future use of the site for industrial purposes.
 5. On sites that have a General Plan Land Use/Transportation Diagram designation of Heavy Industrial or Light Industrial the following additional provisions shall apply:
 - a. Retail sale of vehicle parts is prohibited.
 - b. Scheduled appointments shall be required for the public to visit the portion of the site where the use is located.
- B. No minimum vehicle parking is required for the use, notwithstanding the vehicle parking requirements in Chapter 20.90 of this Title.

SECTION 4. Section 20.50.270 of Chapter 20.50 of Title 20 of the San José Municipal Code is hereby amended to read as follows:

20.50.270 Setback Areas - Open, Unobstructed, and Unoccupied

Except as otherwise expressly and specifically provided in other sections of this Title, every part of every Setback Area shall be kept open, unobstructed, and unoccupied on the surface of the ground, above the surface of the ground, and below the surface of the ground by all Buildings or Structures except as follows:

- A. Sills, eaves, belt courses, cornices, canopies, and other similar architectural features may project horizontally for a distance of not more than two (2) feet into the air space above the surface of the ground in any

Setback Area;

- B. Any portion of a Building (including but not limited to bay windows, chimneys, and ~~bump-outs~~ architectural elements that project out from the primary surface of the Building façade, whether on a foundation or cantilevered) not occupying in the aggregate more than twenty (20) percent of the length of the side of the Building, may project horizontally for a distance of not more than two (2) feet into any Setback Area, provided that such extensions maintain a minimum setback of at least three (3) feet;
- ~~C. Tankless water heaters and power inverters may project horizontally for a distance of not more than two (2) feet into any Setback Area;~~
- ~~CD. In addition to projection into the Setback Area allowed under Subsection B, Wells wells~~ for basement windows or stairs of up to ten (10) feet in length each, not occupying in the aggregate more than twenty (20) percent of the length of the side of the Building on which they are located, may project horizontally for a distance of not more than two (2) feet into the Side and Rear Setback Area, provided that such extensions maintain a minimum Setback of three (3) feet;
- ~~D. Tankless water heaters and power inverters may project horizontally for a distance of not more than two (2) feet into any Setback Area;~~
- E. Overhead wires necessary for electrical and telephone service to a Building on the Lot;

- F. Underground lines necessary for the sewerage, drainage, plumbing, water, gas, and electrical needs of the Lot or of a Building on the Lot; and
- G. Walks and driveways for vehicular or pedestrian access to the Lot.

SECTION 5. Section 20.50.300 of Chapter 20.50 of Title 20 of the San José Municipal Code is hereby amended to read as follows:

20.50.300 Performance Standards

- A. In the IP, LI and HI Industrial Districts no primary, secondary, incidental or Conditional Use or activity related thereto shall be conducted or permitted:
 - 1. In a manner that causes or results in the harmful discharge of any waste materials into or upon the ground, into or within any sanitary or storm sewer system, into or within any water system or water, or into the atmosphere; or
 - 2. In a manner that constitutes a menace to persons or property or in a manner that is dangerous, obnoxious, or offensive by reason of the creation of a fire, explosion, or other physical hazard, or by reason of air pollution, odor, smoke, noise, dust vibration, radiation, or fumes; or
 - 3. In a manner that creates a public or private nuisance.
- B. Without limiting the generality of the preceding subsection, the following specific standards shall apply in the Industrial Zoning Districts:

1. Incineration. There shall be no incineration on any site of any waste material.
2. Vibration. There shall be no activity on any site that causes ground vibration which is perceptible without instruments at the property line of the site.
3. Air Pollution. Total emissions from any use or combination of uses on a site shall not exceed the emissions and health risk thresholds as established by the Director of Planning.
4. Noise.
 - a. The sound pressure level generated by any use or combination of uses shall not exceed the decibel level at any property line as shown in Table 20-135, except upon issuance and in compliance with a Conditional-Special Use Permit as provided in Chapter 20.100.

| Table 20-135 Noise Standards | |
|---|--|
| | Maximum Noise Level in Decibels at Property Line |
| Industrial use adjacent to a property used or zoned for residential purposes | 55 |
| Industrial use adjacent to a property used or zoned for commercial purposes | 60 |
| Industrial use adjacent to a property used or zoned for industrial or use other than commercial or residential purposes | 70 |

SECTION 6. Section 20.85.030 of Chapter 20.85 of Title 20 of the San José Municipal Code is hereby amended to read as follows:

20.85.030 Specific Use Height Restrictions

Subject to the provisions of Section 20.85.010C., the following uses shall be subject to the following specific Height restrictions when such uses are located in an area subject to this Chapter as referenced in Sections 20.30.200, 20.40.200 and 20.50.200. In instances where multiple specific Height restrictions would apply to a use described in this Section 20.85.030, other than uses located within an airport influence area, the more permissive applicable regulation shall govern. For uses located within an airport influence area, the most restrictive applicable regulations shall govern.

A. Communication towers and other structures. For communication towers, antennae and monopoles, net poles, and other similar non-Building structural uses, including Structures on top of Buildings, such as energy-saving devices, bell towers, Wireless Communication Antennae, and associated Structures, specific Height limits may be established in the context of development project review provided, however, that the maximum allowable Height is one hundred fifty (~~400~~150) feet on Sites with nonresidential or non-urban land use designations, and up to one hundred sixty (160) feet on Sites with an existing PG&E substation or high tension line corridor exceeding two hundred (200) KV, or the maximum allowable Building Height for the subject property established elsewhere within Title 20, whichever is greater, if all the following criteria are met:

1. The Site, Structure, and related use are located or constructed to minimize public visibility;

2. The project provides visual amenities, such as landscaping, to address and offset the visual impacts associated with the project use and related Structures; and
 3. The decision-maker reasonably determines that there is substantial evidence that technical necessity requires greater Height, and, in the case of cellular facilities, the increased Height will result in a reduction in the number of existing or future freestanding monopoles.
- B. Single-Room Occupancy (SRO). For Single-Room Occupancy (SRO) Buildings, wholly used as such or combined with commercial uses, the maximum allowable Building Height is sixty (60) feet.

SECTION 7. Section 20.100.220 of Chapter 20.100 of Title 20 of the San José Municipal Code is hereby amended to read as follows:

20.100.220 Appeal - Hearing Body

Decisions on permits or approvals pursuant to this Chapter are subject to appeal as set forth in Table 20-260 which lists the initial decision maker and the decision making body which will hear any appeal.

| Table 20-260 Appeal Hearing Body | | |
|-------------------------------------|------------------------------|-----------------------------|
| Application | Initial Decision Making Body | Appeal Decision Making Body |
| Administrative permit | Director of Planning | No Appeal |

| | | |
|---|----------------------|---------------------|
| Site development permit | Director of Planning | Planning Commission |
| Site development permit - Projects within downtown districts and exceeding 150 feet and FAR of 6:1 | Director of Planning | City Council |
| Single-family house permit | Director of Planning | |
| Administrative decision | Director of Planning | No Appeal |
| Director's hearing | Director of Planning | Planning Commission |
| Planned development permit | Director of Planning | Planning Commission |
| Special use permit | Director of Planning | Planning Commission |
| Conditional use permit | Planning Commission | City Council |
| <u>Conditional use permit - Stadium, more than 2,000 seats including incidental support uses</u> | <u>City Council</u> | <u>No Appeal</u> |
| Conditional use permit - Drinking establishments with an approved maximum occupancy load of over 250 persons that operate between 12:00 midnight and 6:00 a.m. | City Council | No Appeal |
| Conditional use permit involving off-premises sale of alcoholic beverages requiring a determination under Chapter 6.84 where findings required by Planning Commission under Section 6.84.030.B.1. through 4. cannot be made | City Council | No Appeal |
| Variance | Director of Planning | Planning Commission |
| Exception | Director of Planning | Planning Commission |
| Sidewalk café permit | Director of Planning | City Council |
| Tree removal permit | Director of Planning | |
| Administrative decision | Director of Planning | No Appeal |

| | | |
|--------------------------------------|----------------------|---------------------|
| Director's hearing | Director of Planning | Planning Commission |
| Zoning code verification certificate | Director of Planning | No Appeal |

SECTION 8. Section 20.170.300 of Chapter 20.170 of Title 20 of the San José Municipal Code is hereby amended to read as follows:

20.170.300 Development Standards

Subject to the provisions of Section 20.170.60-240, to achieve the purposes of this Chapter, all projects shall conform to the following development standards:

~~1. The off-street parking requirements for a project shall be one and one-half parking spaces for each unit. One such space per unit shall be assigned.~~

21. The consumption of gas and electricity within each unit shall be separately metered so that the unit owner can be separately billed for each utility. A water shut-off valve shall be provided for each unit or for each plumbing fixture.

32. Each unit shall have its own panel board for all electrical circuits which serve the unit.

43. Wall and floor-ceiling assemblies shall conform to the sound insulation performance criteria promulgated in Title 25, Chapter 1, Subchapter I, Article 4, Section 78, or its successor, of the California Administrative Code. Required existing floor covering may only be replaced by another floor covering that provides the same or greater insulation.

SECTION 9. Chapter 20.200 of Title 20 of the San José Municipal Code is hereby amended by adding a section to be numbered and entitled and to read as follows:

20.200.110.5 Aquaculture/Aquaponics

“Aquaculture” is the cultivation of aquatic animals or plants under controlled conditions in compliance with Title 7 of this Code as applicable. “Aquaponics” is the integration of aquaculture with hydroponics, in which the waste products from aquatic animals are treated and then used to fertilize hydroponically growing plants.

SECTION 10. Chapter 20.200 of Title 20 of the San José Municipal Code is hereby amended by adding a section to be numbered and entitled and to read as follows:

20.200.811 Nursery, Plant

A “Plant Nursery” means a use in which plants and trees are grown, cultivated, produced or managed for on-site or off-site sale or for off-site planting.

SECTION 11. Section 20.200.813 of Chapter 20.200 of Title 20 of the San José Municipal Code is hereby amended to read as follows:

20.200.813 Office, General Business

A General Business Office is a space within which management-level administrative services for firms and institutions ~~is~~are provided; or within which services to individuals, firms, or other entities ~~is~~are provided. Examples of a

General Business Office use include but are not limited to offices within which the following services are provided: real estate, insurance, property management, title companies, investment, personnel, travel, and similar services, and including business offices of public utilities or other activities when the service rendered is a service that is customarily associated with office services.

PASSED FOR PUBLICATION of title this _____ day of _____, 2013, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

CHUCK REED
Mayor

ATTEST:

TONI J. TABER, CMC
Acting City Clerk